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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(HONORABLE LARRY A. BURNS)

UNITED STATES OF AMERICA, Plaintiff, v. GENARO SMITH-BALTIHER, Defendant.	Case No.: 07CR3161-LAB Date: December 18, 2007 Time: 9:00 a.m. DEFENDANT'S NOTICE OF MOTION AND MOTION TO: 1) COMPEL DISCOVERY; 2) DISMISS INDICTMENT DUE TO MISINSTRUCTION OF THE GRAND JURY; AND 3) GRANT LEAVE TO FILE FURTHER MOTIONS

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY, AND
PAUL L. STARITA, ASSISTANT UNITED STATES ATTORNEY:

PLEASE TAKE NOTICE that on the above-captioned date and time, or as soon thereafter as counsel may be heard, the defendant, Genaro Smith-Baltiher, by and through his counsel, Joseph M. McMullen and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the motions listed below.

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MOTIONS

Geraro Smith-Baltiher, the defendant in this case, by and through his attorneys, Joseph M. McMullen, and Federal Defenders of San Diego, Inc., pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, laws, case law, and rules, hereby moves this Court for an order:

1) compelling production of discovery;

2) dismissing the indictment due to misinstruction of the grand jury; and

3) granting leave to file further motions.

These motions are based upon the instant motions and notice of motions, the attached statement of facts and memorandum of points and authorities, and any and all other materials that may come to this Court's attention at the time of the hearing on these motions.

Respectfully submitted,

Dated: December 3, 2007

/s/ Joseph M. McMullen
JOSEPH M. McMULLEN
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Smith-Baltiher